

A. PURPOSE, SCOPE AND COVERAGE

New Section . What is the purpose of the Mortgage Broker Practices Act?

To establish a state system of licensure in addition to rules of practice and conduct of mortgage brokers and loan originators to promote honesty and fair dealing with citizens and to preserve public confidence in the lending and real estate community.

RCW 19.146.050

New Section . What is the purpose of the Mortgage Broker Practices Act rules?

The purpose of these rules is to administer and interpret the Mortgage Broker Practices Act in order to govern the activities of licensed mortgage brokers, loan originators and other persons subject to this chapter.

RCW 19.146.223, .225

New Section . What are rules and why do we need them?

~~A rule (or regulation) is a written policy or procedure by a state agency that is generally applicable to a group of people, industries, activities, or circumstances. Rules are used by agencies to "fill in the gaps" of legislation. They implement, interpret, apply or enforce a state or federal law or court decision. A rule is adopted by an agency; a statute is a law that is passed by the state Legislature. In both cases, state law provides for citizen participation before a rule or law is approved.~~

APA Rule Definition: RCW 34.05.010:

"Rule" means any agency order, directive, or regulation of general applicability (a) the violation of which subjects a person to a penalty or administrative sanction; (b) which establishes, alters, or revokes any procedure, practice, or requirement relating to agency hearings; (c) which establishes, alters, or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law; (d) which establishes, alters,

or revokes any qualifications or standards for the issuance, suspension, or revocation of licenses to pursue any commercial activity, trade, or profession; or (e) which establishes, alters, or revokes any mandatory standards for any product or material which must be met before distribution or sale. The term includes the amendment or repeal of a prior rule, but does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public, (ii) declaratory rulings issued pursuant to RCW [34.05.240](#), (iii) traffic restrictions for motor vehicles, bicyclists, and pedestrians established by the secretary of transportation or his designee where notice of such restrictions is given by official traffic control devices, or (iv) rules of institutions of higher education involving standards of admission, academic advancement, academic credit, graduation and the granting of degrees, employment relationships, or fiscal processes.

New Section . What is the scope and coverage of the Mortgage Broker Practices Act and these rules?

Scope and Coverage. There are four tests to determine the scope and coverage of the Mortgage Broker Practices Act and these rules: (1) the persons or entities conducting business; (2) the type of transactions performed when conducting the business; (3) the identification of residential real estate; and (4) the location of residential real estate. All of the tests must be met in order for a person or entity to fall under the scope and coverage of the Act and these rules.

(1) What persons or entities are covered? The Mortgage Broker Practices Act and these rules apply to all persons or entities defined as mortgage brokers or loan originators under RCW 19.146.010(10) and (12), however, certain mortgage brokers and their loan originators may be exempt from all or part of the Act under RCW 19.146.020 as discussed in part under the Exemption Section of these rules.

(2) What type of transactions are covered? The Mortgage Broker Practices Act and these rules cover the making or assisting in obtaining of any "residential mortgage loan" defined under RCW 19.146.010(15) and WAC 208-660-XXX. The terms "making" and "assisting" are further defined under WAC 208-660-XXX.

(3) What is residential real estate? Residential real estate is real property upon which is constructed or intended to be constructed, a single family dwelling or multiple family dwelling of four or less units. See examples in Section B Definitions.

(4) Where must residential real estate be located for transaction to be covered? Residential real estate located in Washington is covered by the Act and these rules. Residential real estate located outside Washington will be governed by the laws of that state or country regardless of the location of the mortgage broker or the residency of the borrower. [CC050506: Note that I want to make it clear under the prohibited practices or other section that a license may be revoked for violations committed in other jurisdictions.]

New Section . What examples are there of business falling under the scope and coverage of the Mortgage Broker Practices Act and these rules?

(1) A loan originator employed with ABC Mortgage, Inc. with a physical office in Redmond, Washington takes a loan application from a Kirkland, Washington resident for the purchase of a home located in Bellevue, Washington. ABC Mortgage, Inc. is not exempt from the Mortgage Broker Practices Act under RCW 19.146.020(1)(a)(i). The home located in Bellevue meets the definition of residential real estate and the purchaser intends to reside in the home. [CC050506: Additional examples will be drafted.]

B. DEFINITIONS

New Section . What definitions are applicable to these rules?

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Act" means the Mortgage Broker Practices Act, chapter 19.146 RCW.

~~(1)~~(2) "Advertising material" means any form of sales or promotional materials to be used in connection with the mortgage broker business.

~~(2)~~(3) "Affiliate" means any person who directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with another person.

~~(3)~~(4) "Application" means the same as in Regulation X, Real Estate Settlement Procedures Act, 24 C.F.R. Sec.3500 as of the effective date of these rules, which is the submission of a borrower's financial information in anticipation of a credit decision, whether written or computer-generated, relating to a residential mortgage loan. If the submission does not state or identify a specific property, the submission is an application for a pre-qualification and not an application for a residential mortgage loan under this part. The subsequent addition of an identified property to the submission converts the submission to an application for a residential mortgage loan.

~~(4)~~(5) "Application deposit" means a deposit in immediately available funds consisting of the equivalent of ten hours investigation fees under WAC 208-660- for each license applied for and the equivalent of five hours investigation fees under WAC 208-660- for each branch office certificate applied for.

~~(5)~~(6) "Approved licensing or continuing education course" means a licensing or continuing education course approved by the director.

~~(6)~~(7) "Bait and switch" means a deceptive practice of soliciting or promising a loan at favorable terms, but later "switching" or providing a loan at less favorable terms. While bait and switch will be determined by the facts of a case, the following examples, alone or in combination may exhibit a bait and switch practice:

(a) A deceptive change of loan program from fixed to variable rate.

(b) A deceptive increase in interest rate.

(c) The misrepresentation of discount points. This may include discount points that have a different rate buydown effect than promised, or origination fees that a borrower has been led to believe are discount points affecting the rate.

- (d) A deceptive increase in fees or other costs.
- (e) Deceptive disclosure of monthly payment amount. This practice may involve soliciting a loan with payments that do not include monthly amounts for taxes and insurance or other reserved items, but leading the borrower to believe that such amounts are included.
- (f) Additional undisclosed terms such as prepayment penalties or balloon payments.
- (g) Additional layers of financing not previously disclosed that serve to increase the overall cost to the borrower. This practice may involve the surprise combination of first and second mortgages to achieve the originally promised loan amount.
- (h) Leading borrowers to believe that subsequent events will be possible or practical when in fact it is known that the events will not be possible or practical.

~~(7)~~ (8) "Borrower" means any person who consults with or retains a mortgage broker or loan originator in an effort to obtain or seek advice or information on obtaining or applying to obtain a residential mortgage loan for himself, herself, or persons including himself or herself, regardless of whether the person actually obtains such a loan.

~~(8)~~ (9) "Branch office" means a fixed physical location such as an office, separate from the principal place of business of the licensee, where the licensee holds itself out as a mortgage broker.

~~(9)~~ (10) "Branch office certificate" means a branch office license issued by the director to engage in the mortgage broker business as the branch office indicated in the certificate, pursuant to RCW 19.146.265.

~~(10)~~ (11) "Certificate of passing an approved examination" means a certificate signed by the testing administrator verifying that the individual performed with a satisfactory score or higher.

~~(11)~~ (12) "Certificate of satisfactory completion of an approved continuing education course" means a certificate signed by the course provider verifying that the individual has attended an approved continuing education course.

~~(12)~~(13) "Computer loan information systems" or "CLI system" means a real estate mortgage financing information system that facilitates the provision of information to consumers by a mortgage broker, loan originator, lender, real estate agent, or other person regarding interest rates and other loan terms available from different lenders.

~~(13)~~(14) "Consumer Protection Act" means chapter 19.86 RCW.

~~(14)~~(15) "Control" including the terms "controls", "is controlled by", or "is under common control" shall mean the power, directly or indirectly, to direct or cause the direction of the management or policies of a person, whether through ownership of the business, by contract, or otherwise. A person shall be presumed to control another person if such person is a (~~director, a designated broker, an owner of 25% or more of the licensee, a general partner, an officer exercising executive responsibility,~~) **general partner, officer, director, or employer of another person; directly or indirectly or acting in concert with others, or through one or more subsidiaries, owns, holds with power to vote, or holds proxies representing, more than twenty percent (20%) of the voting interests of another person; or any person having similar status or function in the business.**[CF050306: This new language is from the RESPA definition of "control." It is not the entire definition.]

~~(15)~~(16) A person is "convicted" of a crime, irrespective of the pronouncement or suspension of sentence, if the person:

- (a) is convicted of the crime in any jurisdiction;
- (b) is convicted of a crime which, if committed within this state would constitute such a crime under the laws of this state;
- (c) has plead guilty or no contest or nolo contendere or stipulated to facts that are sufficient to justify a finding of guilt to such a charge before a court or federal magistrate; or

(d) has been found guilty of such a crime by the decision or judgment of a court or federal magistrate or by the verdict of a jury.

~~(16)~~(17) "Department" means the department of financial institutions.

~~(17)~~(18) "Designated broker" means a natural person designated by the mortgage broker licensee as the person responsible for activities of the licensed mortgage broker in conducting the business of a mortgage broker under this chapter, whose application must be accepted and approved by the department, and who meets the experience and examination requirements set forth in RCW 19.146.210(1)(e).

~~(18)~~(19) "Director" means the director of financial institutions.

~~(19)~~(20) "Employee" means an individual who has an employment relationship with a mortgage broker, and the individual is treated as an employee by the mortgage broker for purposes of compliance with federal income tax laws.

~~(20)~~(21) "Examination" or "Compliance examination" means the examination performed by the Division to determine whether the licensee is in compliance with applicable laws and regulations.

~~(21)~~(22) "Financial institution" means a federally insured bank, savings bank, savings and loan association, or credit union, whether state or federally chartered, authorized to conduct business in this state.

~~(22)~~(23) "Financial misconduct" means without limitation:

- (a) Any conduct prohibited by the act;
- (b) Any similar conduct prohibited by statutes governing mortgage brokers in other states if such conduct would constitute a violation of the act; and
- (c) Any similar conduct prohibited by statutes governing other segments of the financial services industry, including but not limited to the Consumer Protection Act, statutes governing the conduct of securities broker dealers, financial advisers, escrow officers, title insurance companies, limited

practice officers, trust companies, and other licensed or chartered financial service providers; and,

(d) Any conduct commonly known as white collar crime, to include identity theft, mail fraud, wire fraud, money laundering, check fraud, or similar crimes.

~~(23)~~(24) "Independent contractor" or "person who independently contracts" means any person that expressly or impliedly contracts to perform mortgage brokering services for another and that with respect to its manner or means of performing the services is not subject to the other's right of control, and that is not treated as an employee by the other for purposes of compliance with federal income tax laws. Generally, a person is not subject to the other's right of control if that person is not instructed about when, where and how to work, if the person is not guaranteed a regular wage, the person is not reimbursed for business expenses, if the person maintains a separate business, if the person is exposed to potential profits and losses, and if normal employee benefits such as insurance, a pension plan and vacation and sick pay are not provided.

~~(24)~~(25) "Licensee" or "licensed mortgage broker" means:

- (a) A mortgage broker licensed by the director;
- (b) a loan originator licensed by the director;
- (c) any person subject to licensing under RCW 19.146.200; and
- (d) any person acting as a mortgage broker or loan originator subject to any provisions of the act.

(25)(26) "Loan originator" means [Laura is working on this]

~~(26)~~(27) "Loan originator licensee" means a natural person who is licensed as a loan originator or subject to licensing.

~~(27)~~(28) "Lock-in agreement" means [Rich B is working on this]

~~(28)~~(29) "Material litigation" means proceedings that differ from the ordinary routine litigation incidental to the business. Litigation is ordinary routine litigation if it ordinarily results from the business and does not deviate

from the normal business litigation. Litigation involving five percent of the licensee's assets or litigation involving the government would constitute material litigation.

~~(29)~~(30) "Mortgage broker" means any person who for compensation or gain, or in the expectation of compensation or gain

(a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential mortgage loan or

(b) holds himself or herself out as being able to make a residential mortgage loan or assist a person in obtaining or applying to obtain a residential mortgage loan. A person "makes" a loan if the loan is closed in that person's name, or that person advances, offers to advance or makes a commitment to advance funds to a borrower for a loan. A person "assists a person in obtaining or applying to obtain a residential mortgage loan" by, among other things, counseling on loan terms, including but not limited to, rates, fees and other costs, preparing loan packages or collecting enough information on behalf of the consumer to anticipate a credit decision under Regulation X.

~~(30)~~(31) "Mortgage Broker Branch Office Licensee" means a ((person)) location that is licensed as a branch office of a mortgage broker or subject to licensing.

~~(31)~~(32) "Mortgage Broker Licensee" means a location that is licensed as a mortgage broker or subject to licensing.

~~(32)~~(33) "Mortgage Broker Practices Act" means chapter 19.146 RCW and chapter 208-660 WAC.

~~(33)~~(34) "Out-of-state applicant or licensee" means a person subject to licensing that maintains an office outside of this state.

~~(34)~~(35) "Person" means a natural person, corporation, company, limited liability corporation, partnership, or association.

~~(35)~~(36) "Prepaid escrowed costs of ownership," as used in RCW 19.146.030(4), means any amounts prepaid by the borrower

for the payment of taxes, property insurance, interim interest, and similar items in regard to the security property.

~~(36)~~(37) "Principal" means any person who controls, directly or indirectly through one or more intermediaries, or alone or in concert with others, a ten percent or greater interest in a partnership, company, association, or corporation, and the owner of a sole proprietorship.

~~(37)~~(38) "Residential mortgage loan" means any loan primarily for personal, family, or household use secured by a mortgage or deed of trust on residential real estate upon which is constructed or intended to be constructed a single family dwelling or multiple family dwelling of four or less units. This includes loan applications for a refinance of a primary residence for any purpose, loan applications on second homes, and loan applications on non-owner occupied residential real estate if the proceeds of the loan are intended to be used primarily for personal, family or household use.

~~(38)~~(39) "Residential real estate is real property upon which is constructed or intended to be constructed, a single family dwelling or multiple family dwelling of four or less units. Residential real estate includes, but is not limited to:

- (a) A single family home;
- (b) A duplex;
- (c) A triplex;
- (d) A fourplex;
- (e) A single condominium in a condominium complex;
- (f) A manufactured home when the home and real property together will secure the residential mortgage loan; however, residential real estate does not include,
- (g) An apartment building or dwelling of five or more units;
- (h) A single piece of real estate with five or more single

family dwellings unless each dwelling is capable of being financed independently of the other dwellings;

(i) Any dwelling on leased or rented land or space, such as dwellings in a manufactured home park unless the mortgage broker treats such property as residential real estate.

~~(39)~~(40) "Subsidiary" means a corporation, company, partnership, or association (~~that is controlled by another.~~) whose parent company owns more than fifty percent (50%) of the voting stock.

~~(40)~~(41) "Third-party provider" means any person other than a mortgage broker or lender who provides goods or services to the mortgage broker in connection with the preparation of the borrower's loan and includes, but is not limited to, credit reporting agencies, title companies, appraisers, structural and pest inspectors, or escrow companies.

~~(41)~~(42) "Written examination" means a written test approved by the director.

[CC042406: Additional definitions will be added as they are discussed and drafted.]

C.EXEMPTION FROM LICENSING

New Section . If I am licensed as an insurance agent, do I need a separate license to act as a mortgage broker or loan originator?

A licensed insurance agent means any person licensed by the insurance commissioner under RCW 48.17.060 and appointed by an insurer to solicit applications for insurance on its behalf. If as a licensed insurance agent you intend to make a residential loan, or take a residential mortgage loan application for a mortgage broker, or offer or negotiate the terms of a mortgage loan, for compensation or gain, or hold yourself out as being able to do so, you will need a separate license as either a mortgage broker or a loan originator.

New Section. If I am doing business as an authorized insurance company with a certificate of authority in any

state, do I need a separate license to act as a mortgage broker?

As an insurance company, you are exempt from the act under RCW 19.146.020(1)(a)(i). [CC050506: Let's discuss the exemption for "any state."]

New Section . If I am doing business under the Consumer Loan Act when would I have to have a Mortgage Broker license?

- (1) If you are brokering loans under your Consumer Loan Act license [CC042406: "and these loans are subject to the authority of that act"] and you are including those loans for purposes of the annual assessment payment under the Consumer Loan Act, your activity is exempt from this act.
- (2) If you are brokering loans that are not subject to your Consumer Loan Act annual assessment, you will need to license as a mortgage broker unless you fall under an exemption other than RCW 19.146.020(b).

New Section . As an attorney, do I need a mortgage broker or loan originator license when I negotiate a residential mortgage loan in the course of my practice?

Any person licensed to practice law in this state and while engaged in the performance of his or her professional duties as an attorney is exempt from the Act under RCW 19.146.020(1)(c) as long as the mortgage broker activities are incidental to the person's conduct as an attorney.

Whether an exemption is available to you depends on the facts and circumstances of a particular situation. If you hold yourself out publicly as being able to perform the services that would otherwise require licensing as a mortgage broker or loan originator, if you charge separately for those services or if your fee structure for those services is different from the schedule for your normal professional services, you will be deemed to be principally engaged in the mortgage business thus you would need a mortgage broker or loan originator license before performing those services.

New Section . As a licensed real estate broker or salesperson, do I need a mortgage broker or loan originator license when I assist the purchaser in obtaining financing for a residential mortgage loan involving a bona fide sale of real estate?

You are exempt from the act under RCW 19.146.020(1)(g) if you only receive the customary real estate commission in connection with the transaction. A "customary" real estate commission does not include receipt of (~~fees~~) compensation or gain associated with the financing of the property. A "customary" real estate commission only includes the agreed upon commission designated in the purchase and sale agreement for the bona fide sale of the subject property. [CC042406: Consider adding examples here.]

New Section . Under what circumstances will the director approve an exemption under RCW 19.146.020(4) for the loan originators of an affiliate of a bank that is wholly owned by the bank holding company that owns that bank?

(1) The director will provide a written exemption from licensing for loan originators working for an affiliate of a bank that is wholly owned by the bank holding company that owns the bank if the director finds that:

- (a) The affiliate is in "good standing" with the department;
- (b) The loan originators working for the affiliate of a bank work as exclusive agents and do not operate as loan originators for other mortgage brokers;
- (c) The affiliate of the bank requires continuing education for loan originators that meets the same or similar requirements approved by the director for licensed loan originators;
- (d) The loan originator working for such affiliate of the bank has not been convicted of a gross misdemeanor involving dishonesty or financial misconduct or a felony within seven years of beginning work for the affiliate. [CC042406: The last part of this sentence doesn't make logical sense. We need to rework. Perhaps end after "seven years."] This includes having a supervisory plan in place requiring notification of the department if an approved agent is convicted of a gross misdemeanor involving dishonesty or financial misconduct or a felony.
- (e) The loan originator working for such affiliate of the bank has not had a loan originator or similar license revoked or suspended within the last five years.

(2) To qualify for this exemption, the affiliate must make a written request to the department. After receipt of this request the department will notify the exclusive agent in writing within 90 days whether or not it qualifies for the exemption.

(3) The exemption granted by the director remains valid [CC042406: "until revoked"] (a) as long as the affiliate maintains the same business model for using loan originators and (b) the affiliate remains in good standing with the department.

(4) If the affiliate changes its business model, it must notify the department and apply for another exemption if applicable.

D. MORTGAGE BROKER MAIN OFFICE

1. General
2. Exempt Mortgage Brokers
3. Continuing Education
4. Transfer of Mortgage Broker Business

E. DESIGNATED BROKERS

1. Designated Broker Responsibilities
2. Designated Broker Liabilities
3. Testing

F. MORTGAGE BROKER BRANCH OFFICES

G. LOAN ORIGINATORS

1. Testing
2. Continuing Education

H. OUT-OF-STATE MORTGAGE BROKERS AND LOAN ORIGINATORS

I. MORTGAGE BROKER LICENSING

J. MORTGAGE BROKER BRANCH OFFICE LICENSING

K. LOAN ORIGINATOR LICENSING

How do I get a Loan Originator License?

1. **Pass a Loan Originator License Test.** In order to become licensed as a loan originator a person must take and pass a test assessing knowledge of the mortgage business and related regulations. See Section G.1., loan originator testing.
2. **Application.** An applicant for a Loan Originator license must accurately and honestly complete a Loan Originator application form and include at least the following information:
 - a) The name, address, date of birth, and social security number of the loan originator applicant and any other names, dates of birth, or social security numbers previously used by the loan originator applicant, unless this requirement is waived by the director; and
 - b) Other information regarding the loan originator applicant's background, experience, character and general fitness as the director may require.
3. **You must prove your identity.** As part of the application for licensure as a Loan Originator the applicant shall furnish information concerning his or her identity, including fingerprints for submission to the Washington State Patrol, the FBI, and any governmental agency or entity authorized to receive this information. The information may be used for a state and national criminal history background check, to review personal history, experience, business record and other pertinent facts. The director may also collect nonconviction data about an applicant. [CC050806: Add in ", however the use of nonconviction data is governed by RCW 19.146.205(2) and WAC 208-660-XXX"]
4. **Pay a Fee.** Loan Originators will have to pay an annual license fee. See Section T, Department Fees and Costs.
5. **Incomplete Applications.** Incomplete applications for licensure as a Loan Originator will be rejected and returned to the sender. [CC050806: Add in "with a notice of incomplete, missing or inaccurate information"]

**How will I know I Qualified for a Loan Originator License?
(When will I get my license?)**

1. License Issuance. Department staff will investigate applicants. A license will be issued if, after investigating a Loan Originator applicant, DFI finds the person has met the following criteria:

- a. The applicant has paid the license fees;
- b. The applicant has been found to demonstrate the experience, character and general fitness such as to command the confidence of the community and to warrant a belief that the business will be operated honestly and fairly within the purposes of the act (section 32) ; [CC050806: "Such demonstration will include a review of the number and severity of complaints filed against the applicant in any state, as well as any investigation or enforcement activity in this state or any other state."]
- c. The applicant has answered all the questions in the application truthfully and accurately;
- d. The applicant has not had a license issued under the act or any similar state statute suspended or revoked within five years of filing the present application;
- e. The loan originator applicant has not been convicted of a gross misdemeanor involving dishonesty or financial misconduct or a felony within seven years of the filing of the present application;
- f. The applicant has passed the written loan originator license test. See G.1., loan originator testing.
- g. The applicant is not found to be in violation of the act or these rules written in support of the act;
- h.
- i.

[CC050806: We need a question here dealing with the department's ability to issue licenses electronically.]

2. License Denial. If the department finds the applicant for a loan originator license has not met the conditions of section #1 above, a loan originator license will not be issued to the applicant. The director will notify the loan originator applicant of the license application denial and return the application and any remaining portion of the license fee that exceeds the department's license investigation costs to the applicant. If the loan originator applicant indicated an affiliate on the application, the department will also notify that affiliate of the license denial. [CC050806: We need to consider the "will not be issued" phrase. The director should have the authority to waive issues found in #1.]

3. New License Issuance. The director will issue a new loan originator license to any licensee who has a valid loan originator license and is otherwise in compliance with the act. [CC050806: Consider changing "otherwise in compliance" to "is in good standing as detailed under WAC 208-660-XXX."] Example: Issuing a license to a licensee married and changed his or her name. If the licensee is in compliance with department requirements, does not owe fines, fees, or any responses to department directives, the department will issue the new license in the new name. [WJ050806: author of language] [CC060806: Using the "good standing" section we will not need an example here. Also, I do not understand the difference between this section and #5 below (License Renewal).]

4. Loan Originator License Expiration. A loan originator license expires one year from the date of issuance. The expiration date is the license renewal date. The director may choose to extend license expiration dates to create a practical and manageable renewal cycle. This may be done for example, to implement a coordinated multi-state computerized license renewal system wherein all loan originator licenses expire December 31 and must be renewed January 1. [CC050806: I do not believe we

have the authority to "extend" renewal dates. We need to find a better way to phrase this.]

5. License Renewal. The department will renew a loan originator license if the licensee has paid the annual license fee and has shown proof of successfully completing an approved continuing education course. You must have completed the course during the year prior to renewal. You must also be in compliance with all other license requirements. The renewed license is valid for another year or until surrendered, suspended or revoked. The department may renew the license electronically. [CC050806: We should consider the "good standing" language here as well.]

RCW 19.146.NEW 33(1).

If my status has changed will I be able to renew my loan originator license?

If you remain in compliance with the laws that apply to loan originators, have not been convicted of a crime that would eliminate your fitness to remain licensed you will be able to renew your license with a status change. A status change could be a name change if you got married or divorced. A status change could be an association with a new mortgage broker licensee. A status change could mean putting your license on inactive status while you work for an exempt entity such as a bank. [CC050806: Again, consider "good standing" language in this section.]

Does a loan originator license expire?

[KM041906: Yes. RCW 19.146.New Section 33(4). The department may issue interim licenses per RCW 19.146.New Section 33(6) with an expiration date of less than 1 year as needed.]

Is an Interim Loan Originator License Available?

The director may, to prevent delay in issuance of a loan originator license, issue an interim license with a fixed expiration date.[WJ050506: we thought to insert "of less than one year" here. I wonder if we issued an interim

license in November would we allow it to run through the following December to eliminate administrative work? Doing so gives the applicant a bit more than a year of a "free bite" but allows us to get lots of licensing done.] The interim license may be issued when the director determines a loan originator applicant has substantially fulfilled the requirements for licensing. Interim license holders may be required to provide the department with information necessary to complete a license application review. Applicants who fail to properly and completely fulfill requests for additional information may lose their interim license.

RCW 19.146.NEW 33(6)

How does a Loan Originator Surrender a license?

Loan originator licenses expire at the end of the license year. [CC050806: "on the expiration date printed on the license".] Loan originators may surrender a license before the end of the license year by providing written notice to the director that the licensee is no longer going to be in the mortgage loan origination business. This written notice must contain the licensee's license number, name address and social security number. Delivering this notice to the director does not change the loan originator's civil or criminal liability or any administrative actions arising from acts or omissions occurring before the license surrender. [WJ050506-Do we want to mention a license closure form?] [CC050806: This section should have a reference to an alternative notice (e.g. electronic) established by the department.]

RCW 19.146.NEW 33(5).

Can I just let my loan originator license expire?

[KM041906: Yes; however, if you leave the business before the expiration date, you must notify the department w/in XX days per WAC 208-660-XXX.]

If I let my MB license expire do I have to completely reapply to get a new license (what do I do if I am late to renew)?

[KM041906: Shall we consider a grace period type system of "suspension+reinstatement deadline w/late penalty B4

expire" similar to CCS & MT? Or a simple "late penalty" like EA? Or shall we just say "YES" to this question and make the renewal deadline firm. A firm renewal deadline is what's expected for the CSBS/AARMR database.]

[KM050306] The LO license expires on the date shown on the license unless the licensee has satisfied the renewal requirements (CE & fee) of WAC 208-660-xxx ("how do I renew my license?").

You may apply for reinstatement of your loan originator license up to thirty (30) days following the expiration date by taking these two steps:

(1) satisfying the renewal requirements of WAC 208-660-xxx

(2) paying a late fee (50% of the renewal fee) as set forth in WAC 208-660-xxx ("section T").

If you want to continue to hold a loan originator license, but you do not apply for reinstatement within the thirty (30) days following expiration, you must comply with these four requirements:

(1) cease operations as a loan originator on the 30th day following expiration

(2) notify the related mortgage broker(s) that your loan originator license has expired

(3) re-apply to the department for a loan originator license per WAC 208-660-xxx ("how do I get a loan originator license?") except that the loan originator need not re-take the test

(4) await the department's determination that a new loan originator license shall be issued per WAC 208-660-xxx ("how will I know I qualified...?") before resuming the activity of an loan originator.

Can I sell, loan or give my loan originator license to someone else?

No. A loan originator license, or the authority granted under such a license, is not assignable and cannot be transferred, sold or franchised.

RCW 19.146.NEW 34

How do I add or delete a mortgage broker relationship to my loan originator license? [CF050806: Two options for language follow this question]

ONE:

Licensed loan originators wishing to add a mortgage broker relationship to their license must complete a license amendment form noting the new mortgage broker relationship and pay a license fee for the new license. The mortgage broker being added must also sign the form and provide information. Loan originators wishing to delete a mortgage broker relationship must fill out a license amendment form and the mortgage broker with whom the relationship is ending must sign the form. The relationship opening and closing forms can be filled out online or on paper and mailed to the department. [WJ050806: author of language] [CC050806: This section needs some work considering the intended future of electronic additions. For example, we reference "signed" forms.]

TWO:

Prior to soliciting or conducting business through a mortgage broker, you must:

1. Submit a completed license amendment form, which shall be signed by you and the designated broker;
2. Pay the amendment fee as per Section T; and
3. Be in receipt of a valid license as issued by the director showing the applicable broker relationship

To delete a mortgage broker relationship from a loan originator license, submit a completed license amendment form, signed by the loan originator. No fee is required.

[JSL050106: author of language] [CC050806: The question is not answered here. Seems like we need an answer to the

question and then a question for the answer. Also, consider an electronic means.]

Do I need to display my loan originator license at each mortgage broker's office?

[Kae to re-write]

If I work for a bank or other exempt entity can I still apply for and receive a loan originator license?

Yes. Loan originator licenses must be associated with a licensed mortgage broker. While working for the bank or other exempt entity your loan originator license is inactive. If you later take a job with a licensed mortgage broker you can activate your license in order to create an association with that mortgage broker. [WJ050806: author of language][CF050406-Chuck says okay to have this Q here and NOT in the exemptions section] [CC050806: The question and answer need work. While the concept of inactive license is acceptable, it isn't clarified sufficiently here.]

Do processors need a license? WA license?

[Ann to re-write]

L. DISCLOSURE OF SIGNIFICANT OR ADVERSE DEVELOPMENTS

M. PROHIBITED PRACTICES

N. DISCLOSURE REQUIREMENTS

O. MORTGAGE BROKER AND LOAN ORIGINATOR FEES

P. CONTRACTS

Q. TRUST ACCOUNTING

R. RECORD KEEPING REQUIREMENTS

S. ADVERTISING

T. DEPARTMENT FEES AND COSTS

U. ANNUAL REPORTING REQUIREMENTS

V. DIRECTOR AND AGENCY POWERS

1. Examination Authority

Is a mortgage broker that table funds a loan exempt from disclosures?

No. A mortgage broker, unless exempt under RCW 19.146.020(1)(a) is required to provide disclosures as provided in 19.146.030 regardless of the funding mechanism employed in the transaction.

RCW 19.146.030(1)

Do I need to display my loan originator license at the location where I am registered?

The mortgage broker licensee and loan originator are not required to display the loan originator's license. However, the loan originator's license must be made available for review upon request.

RCW 19.146.225

Do I need to disclose my loan originator license number to the borrower?

There is no requirement that a loan originator voluntarily disclose their license number to the borrower. However, in the following situations a loan originator must disclose their loan originator license number and the name and license number of the mortgage broker that the loan originator license number is associated with:

(1) When asked by any party to a loan transaction, including third party service providers;

(2) When asked by any person that has been solicited by the loan originator, including solicitations related to the business of the loan originator even if such solicitation is not directly related to a mortgage transaction;

(3) When asked by any person that has contacted the loan originator related to a residential mortgage loan;

(4) When advertising or soliciting pursuant to WAC 208-660-XXX;

(5) When taking an application pursuant to WAC 208-660-XXX.
RCW 19.146.030(1)

In addition to the act, what other laws do I have to comply with?

[CC050506: Joe Vincent is currently drafting this section of the rules and will have them ready shortly.]
RCW 19.146.030(1)

2. Examination Process
3. Examination Procedures
4. Investigation Authority
5. Investigation Process
6. Enforcement Authority
7. Enforcement Process
8. Complaint Process

W. MORTGAGE BROKER COMMISSION

X. OTHER REQUIREMENTS

Y. AGENCY GUIDANCE AND TECHNICAL ASSISTANCE (see RCW 35.04)

Z. FORMS